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Attorneys for Defendant and Third-Party Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MARK AST and RGEN, INC.,

Plaintiffs,

-against-

MICHAEL COHEN, a/k/a MICHAEL

MOSHE COHEN, a/k/a MOSHE

MICHAEL COHEN,

Defendant.

Index No. 12-CV-9434 (CM)

**DEFENDANT'S and
THIRD-PARTY PLAINTIFF'S
NOTICE OF
CROSS-MOTION**

TO: Brian S. Cohen, Esq.
10 East 40th Street, 46th Floor
New York, New York 10016
Tel: (203) 813-3100
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Attorneys for Plaintiffs

PLEASE TAKE NOTICE that, upon the accompanying (1) *Memorandum of Law in Opposition to Plaintiffs' Motion for Summary Judgment and in Support of Defendant's and Third-Party Plaintiff's Cross-Motion to Compel and for Fees, to change Third-Party Plaintiff's Name and Defendant's Cross-Motion for Summary Judgment*; (2) *Affidavit of Michael Cohen* and the exhibits annexed thereto, (3) *Affirmation of Roger Fidler and the exhibits annexed thereto*; and (4) *Defendant's and Third-party Plaintiff's Local Civil Rule 56.1 Statement of Material Facts as to Which There Exists Genuine Issues to be Tried with respect to Plaintiffs'*

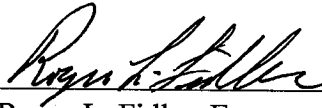
Motion and (5) Defendant's Local Civil Rule 56.1 Statement of Material Facts as to Which There Exists No Genuine Issues to be Tried with respect to Defendant's Motion, Defendant and Third-Party Plaintiff will move this Court, before Honorable Colleen McMahon, for an Order:

- 1.) Compelling Plaintiff Mark Ast to provide names, addresses, and dates of service of all medical providers for him and his mother and execute medical authorizations for such providers;
- 2.) Compelling the deposition of Plaintiff Mark Ast,
- 3.) Changing the name of Third-Party Plaintiff to Nancyco Holding Company, Inc.,
- 4.) Denying Plaintiffs' Motion for Partial Summary Judgment and Judgment on the Pleadings;
- 5.) Granting Defendant, pursuant to Rule 56 of the Federal Rules of Civil Procedure, Summary Judgment on Plaintiffs' First, Second, and Third Claims in the Complaint; and
- 6.) Granting Defendant and Third-Party Plaintiff, pursuant to Rule 37 of the Federal Rules of Civil Procedure, an order granting their attorney's fees for Plaintiffs' failure to make disclosures and cooperate in discovery;

PLEASE TAKE FURTHER NOTICE that a proposed form of order is submitted herewith,

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule IV-F of the Individual Practices and Procedures of the Honorable Colleen McMahon; (i) “[a]nswering papers or motions are to be served 2 weeks after receipt of the moving papers”; and (ii) “[r]eply papers, if any, are to be served 5 business days later.”

Dated: September 24, 2013

A handwritten signature in black ink, appearing to read "Roger L. Fidler", is written over a horizontal line.

Roger L. Fidler, Esq.

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